

BEFORE THE FEDERAL ELECTION COMMISSION

2011 JUL 26 AM 9:02

In the Matter of

MUR 6423

ANGEVIN FOR CONGRESS AND

EDWARD A. GIROUX, AS TREASURER

JAMES R. ANGEVIN

)

) DISMISSAL AND **CELA**

) CASE CLOSURE UNDER THE

) UNDER THE SYSTEM

) ENFORCEMENT PRIORITY

)

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria to allocate its resources and decide which cases to pursue. These criteria include, but are not limited to, an assessment of (1) the gravity of the alleged violation, both with respect to the type of activity and the amount in violation, (2) the apparent impact the alleged violation may have had on the electoral process, (3) the legal complexity of issues raised in the case, (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended ("Act"), and (5) development of the law with respect to certain subject matters. It is the Commission's policy that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss certain cases. The Office of General Counsel has scored MUR 6423 as a low-rated matter and has also determined that it should not be referred to the Alternative Dispute Resolution Office. This Office therefore recommends that the Commission exercise its prosecutorial discretion to dismiss MUR 6423.

In this matter, complainant Giovanni Cicione, Chairman of the Rhode Island Republican Party, alleges that Angevin for Congress and Edward A. Giroux, in his official

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1 capacity as treasurer (the "Committee"), and James R. Langevin¹ violated the Act and
2 Commission regulations when the Committee filed incomplete reports with the
3 Commission during the 2009-2010 election cycle. Specifically, the complaint alleges that
4 the Committee reported 16 credit card payment disbursements totaling \$91,562, but failed
5 to include itemized memo entries for the underlying transactions with specific vendors, in
6 violation of 11 C.F.R. § 102.9(b).

7 In response, the Committee admits that during the 2009-2010 election cycle, it
8 failed to include memo entries in connection with some of its reported credit card
9 disbursements. However, the Committee asserts that this resulted from a problem with its
10 reporting software. Apparently, the software did not include memo entries associated with
11 transactions that occurred outside of the reporting period; e.g., memo entries associated
12 with a payment of \$3,653.44 to American Express on July 10, 2010 were not included in
13 the Committee's Pre-Primary Report, which covers the time period July 1, 2010 through
14 August 25, 2010, because the underlying transactions did not occur within the reporting
15 period. The Committee maintains that upon learning of the "glitch" in the software, it
16 contacted the software vendor, which corrected the problem. The Committee also states
17 that it amended its reports to reflect the missing memo entries when the problem was
18 brought to its attention.

19 Under Commission regulations, committees are required to identify disbursements
20 and report the purpose of the disbursement or a brief description of why the disbursements
21 were made. 11 C.F.R. §§ 102.9(b) and 104.9. If the disbursements are for credit card
22 payments, committees must itemize the underlying transactions, if payments to the original

¹ Mr. Langevin represents Rhode Island's Second Congressional District.

1 vendors exceed \$200 per vendor per election cycle. *Id.* Here, while the Committee
2 originally failed to include memo items for some credit card disbursements, it appears the
3 incomplete information was caused by a problem with the Committee's software.
4 Moreover, the Committee took remedial measures by having the vendor address the
5 problem and amending its reports to include the missing memo entry information.
6 Accordingly, under EPS, the Office of General Counsel has scored MUR 6423 as a low-
7 rated matter and therefore, in furtherance of the Commission's priorities as discussed
8 above, the Office of General Counsel believes that the Commission should exercise its
9 prosecutorial discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821
10 (1985). Additionally, this Office recommends that the Commission remind Langevin for
11 Congress and Edward A. Giroux, in his official capacity as treasurer, concerning the
12 itemization requirements relating to the reporting of credit card transactions, pursuant to
13 11 C.F.R. §§ 102.9(b) and 104.9.

14 **RECOMMENDATIONS**

15 The Office of General Counsel recommends that the Commission dismiss MUR
16 6423, close the file, and approve the appropriate letters. Additionally, this Office
17 recommends that the Commission remind Langevin for Congress and Edward A. Giroux,
18 in his official capacity as treasurer, concerning the itemization requirements relating to
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the reporting of credit card transactions, pursuant to 11 C.F.R. §§ 102.9(b) and 104.9.


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7/20/11
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